

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

11-CR-6118L

v.

MARK JOSEPH ROSSEL,

Defendant.

Defendant, Mark Joseph Rossel (“Rossel”), has been indicted on federal charges. He was ordered to undergo a psychiatric evaluation to determine whether he is competent to proceed to trial. A report was submitted concerning Rossel by a forensic psychologist at the Metropolitan Correctional Facility in New York City. That report determined that Rossel is not currently competent to stand trial.

The matter was referred to United States Magistrate Judge Marian W. Payson who held a hearing on the matter. The examining psychologist testified and was examined by counsel for the Government and counsel for Rossel.

Magistrate Judge Payson issued a thorough Report and Recommendation (Dkt. #15) on November 2, 2011 recommending that this Court find Rossel not competent to stand trial and order him committed to the custody of the Attorney General for a reasonable period to determine whether there is a substantial probability that Rossel will attain the capacity to permit the proceedings to go forward.

I have reviewed the Report and Recommendation and the report submitted concerning Rossel and I accept and adopt the Magistrate Judge’s Report and Recommendation in all respects.

CONCLUSION

I accept and adopt the Report and Recommendation of Magistrate Judge Marian W. Payson (Dkt. #15).

I conclude that defendant Mark Joseph Rossel is suffering from a mental disease which renders him unable to rationally understand the nature and consequences of the proceedings against him and to assist in his own defense. I, therefore, find him incompetent to stand trial at this time, and it is hereby,

ORDERED that defendant Mark Joseph Rossel be remanded to the custody of the Attorney General, at a suitable federal medical facility, for a reasonable period of time, not to exceed four (4) months, to determine whether there is a substantial probability that in the foreseeable future the defendant will attain the capacity to stand trial, pursuant to 18 U.S.C. § 4241(d)(1), and it is further

ORDERED that at the conclusion of the hospitalization, the Attorney General, or his designee, submit a report to the Court on defendant's status prior to returning defendant to the custody of the United States Marshal.

IT IS SO ORDERED.



DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
November 3, 2011.